



7/28/76

# Edison firm sues to

**NEW BRUNSWICK** — The owner of a 200-acre industrial park near the controversial Kin-Buc, Inc. landfill in Edison yesterday filed suit in the Chancery Division of Superior Court to force its closing.

Isaac Heller, owner of the Heller Industrial Park on Mill Road in Edison, is plaintiff in the litigation.

Named defendants with Kin-Buc are Inmar Associates, Inc., owners of the property leased for the landfill; the N.J. Board of Public Utilities Commissioners;

and the N.J. Department of Environmental Protection.

Heller contends that he is engaged in the business of constructing and leasing buildings for industrial use, with seven structures now leased or occupied. Similar use is anticipated for the balance of the property, subject to the existing zoning code in the township.

The industrial park is north of the Kin-Buc tract and separated only by a 60-foot strip of land utilized by the Lehigh Valley Railroad.

According to the suit, "the nature of and the manner in which Kin-Buc's facility is conducted severely and adversely affects the plaintiff's beneficial use and enjoyment of his premises."

The complaint contends that an application filed by Kin-Buc with the DEP about June 11, 1970, for certification indicated the landfill covers 220 acres. "The approval issued by the township of Edison described as the area for which the approval was granted as 'Meadow Road' and the implication of that attachment to the DEP

# force Kin-Buc closing

by Kin-Buc. . . was that the municipal approval encompassed the entire 220 acres described in the original application, all of which was false and untrue, in that the municipal approval encompassed only five acres," the suit alleges.

It further charges that the DEP issued a notice of disapproval for the engineering design of Kin-Buc, which serves 54 municipalities and six other states, effective April 7, 1975. "The disposal operation . . . has been continued unabated despite the disapproval of the proposed engineering design, all in violation of DEP regulations," according to the suit.

Heller is asking the court to direct the DEP to enforce its own regulations and to enforce an order directing Kin-Buc to terminate its activity at the Edison site. It also asks a restraining order barring the DEP from modifying its order in any manner which might result in the continuation of waste disposal activities at the landfill.

Claiming that the application for a registration certificate by Kin-Buc was false and misleading, the complaint asks that the certificate be declared null and void.

In addition, the suit contends the DEP cannot act upon the engineering plan now pending before it because it violates local ordinances. "The DEP is not empowered by its enabling legislation or by applicable statute . . . to effect zoning regulations determining land use."

Based on that claim, the suit asks restraints to bar the issuance of a certificate permitting dumping north of "the town ditch" and to enjoin the DEP from considering or approving an engineering plan submitted by Kin-Buc.

If unsuccessful on that basis, it is asked that the DEP be enjoined from acting upon the engineering design plan until the department has adopted reasonable guidelines, criteria and standards regarding land use controls for solid waste disposal facilities.

Further, the suit contends that the Inmar property to the north of "the town ditch" lies in a heavy industrial zone where disposal of waste is not a permitted use. A restraint is sought to permit dumping in that area until "such time as it is permitted by the zoning ordinance."

The litigation also seeks a court order

which would direct the DEP to require an environmental impact statement in connection with Kin-Buc's engineering design plan and to restrain any approval pending such a study.

In addition, the suit contends that Kin-Buc is unlawfully engaged in the business of solid waste disposal because it does not hold a certificate of public convenience and necessity issued by the PUC. Again, a restraining order is asked which would require Kin-Buc from operating the landfill.

The complaint also asks the court to direct the PUC to withdraw any and all tariffs issued by it for the operation of the Kin-Buc facility and directing the landfill to refrain from receiving any chemical or solid waste material.

Finally, it charges that the "massive quantities of solid and liquid chemical waste . . . have resulted in vast pollution of every sort to the areas surrounding the landfill," including the Heller tract.

Continuing the allegation that use of the land, except for five acres, is a result of fraud, the plaintiff is also asking a restraining order to bar expansion as well as compensatory and punitive damages.